

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Robert Banks

v.

Civil No. 11-cv-00322-JL

Mark Hall, et al.

**ORDER AFTER PRELIMINARY**  
**PRETRIAL CONFERENCE**

The Preliminary Pretrial Conference was held in chambers on  
**November 2, 2011.**

**The parties and counsel are advised that the Commissioner of the New Hampshire Department of Safety's spouse is employed in the undersigned judge's chambers as a judicial assistant. As the defendants are employed by the Department of Safety, any party desiring recusal or other relief should make an appropriate filing. (The undersigned judge will not take offense, and will recuse himself upon request.)**

The Discovery Plan (document no. [15](#)) is approved as submitted, with the following changes:

- Close of discovery - **January 23, 2012**
- Summary judgment deadline - **February 1, 2012**
- Jury trial - **August, 2012**

Based on the discussions between the court and counsel at the conference, the following are **stricken** without prejudice to being reinstated on request if warranted by the evidence:

- the plaintiff's claim for a "due process" § 1983 violation (Count Three).
- the following affirmative defenses: 5th (assumption of risk); 8th (provocation).

**Summary Judgment.** The parties and counsel are advised that compliance with Rule 56(e) and Local Rule 7.2(b), regarding evidentiary support for factual assertions, and specification and delineation of material issues of disputed fact, will be required.

**Discovery disputes.** Discovery disputes will be handled by the undersigned judge, as opposed to the Magistrate Judge, in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The court will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. If counsel

prefer traditional discovery litigation to the conference call procedure set forth above, any such motion to compel should expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will normally be granted. If the Magistrate Judge is recused, alternate arrangements will be made.

**SO ORDERED.**

A handwritten signature in black ink, reading "Joe Laplante". The signature is written in a cursive, flowing style. The first name "Joe" is written with a large, stylized "J" and "e". The last name "Laplante" is written with a large "L" and a stylized "e". The signature is positioned above a horizontal line.

Joseph N. Laplante  
United States District Judge

Dated: November 4, 2011

cc: Thomas J. Gleason, Esq.  
Kevin H. O'Neill, Esq.  
John C. Vinson, Esq.